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FIRST GENERAL COUNSEL'S REPORT

MUR: 6624
COMPLAINT FILED: August 7, 2012
DATE OF NOTIFICATION: August 14, 2012
LAST RESPONSE: September 4, 2012
ACTIVATED: January 15, 2013

ELECTION CYCLE: 2012
STATUTE OF LIMITATIONS:
Earliest: November 3, 2016
Latest: October 15, 2017

COMPLAINANT: George Nault

RESPONDENTS: Ron Gould
Gould for Congress and Janice Gould in her official
capacity as treasurer
Committee to Elect Ron Gould and Janice Gould in
her official capacity as treasurer
Blue Point, LLC
Christopher Baker

**RELEVANT STATUTES
AND REGULATIONS:** 2 U.S.C. § 434(b)
2 U.S.C. § 441a(a)(8)
2 U.S.C. § 441i(e)
11 C.F.R. § 102.8(a)
11 C.F.R. § 110.3(d)
11 C.F.R. § 110.6(c)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. INTRODUCTION

During the 2012 election cycle, Ron Gould was both an Arizona state senator and a
candidate for the U.S. House of Representatives from Arizona's 4th Congressional District.¹ The

¹ Gould lost the August 28, 2012 primary election.

1 Complaint alleges that Gould's state campaign committee paid a consulting company for
2 services provided to his federal campaign. The Complaint also alleges that Gould's federal
3 campaign committee failed to properly report "bundled" contributions², failed to report five
4 contributions whatsoever, and "failed to properly attribute" contributions between the primary
5 and the general elections.

6 Gould denies that his state campaign committee paid for consulting services provided to
7 his federal campaign, asserting that the disbursements were for "state level consulting."³ Gould
8 also argues that the allegation pertaining to the disclosure of bundled contributions lacks merit,
9 and states that the five individual contributions cited in the Complaint were either mistakenly
10 omitted, unintentionally misreported, or impossible to process; according to Respondents, all but
11 one of these individual contributions were ultimately processed and properly reported on
12 amended disclosure reports.⁴ Gould does not address the allegation relating to the attribution of
13 contributions between the primary and general elections.

14 The available information provides reason to believe that Gould's state committee paid
15 for consulting services that benefited Gould's federal campaign. Thus, we recommend that the
16 Commission find reason to believe that Gould, his state committee, and his federal committee
17 each violated 2 U.S.C. § 441i(e); and that the federal committee violated 2 U.S.C. § 434(b) by
18 failing to report the in-kind contributions from the state committee, and by failing to properly

² The Complaint interchangeably refers to the earmarked contributions as "bundled contributions" and "earmarked contributions." The Response refers to these contributions as "bundled." Resp. at 1-2. Though the contributions were disclosed as "bundled" contributions, they were actually earmarked contributions. *See infra* pp. 12-17. We refer to the contributions as "earmarked contributions" throughout this report.

³ Resp. at 1 (Aug. 31, 2012). The Response was signed by Ron Gould and by Janice Gould, who served as the treasurer for both the state committee (Committee to Elect Ron Gould) and the federal committee (Gould for Congress).

⁴ *Id.* at 1-2.

1 report earmarked contributions. We also recommend that the Commission authorize an
2 investigation to obtain more information about the consulting services at issue.

3 **II. FACTUAL AND LEGAL ANALYSIS**

4 **A. State Committee Payments for Consulting Services**

5 **1. Facts**

6 Gould was first elected to Arizona's State Senate in November 2004.⁵ The Committee to
7 Elect Ron Gould ("State Committee") is Gould's state campaign committee and Janice Gould is
8 its treasurer. Gould was ineligible to run for reelection to the state senate in 2012 because he had
9 already served four two-year terms, the maximum allowed by the state.⁶ In 2011, the State
10 Committee spent approximately \$21,000.⁷ Of that total, the committee disbursed \$16,500⁸ to
11 Blue Point, LLC, ("Blue Point") a political consulting firm, for "Professional Services —
12 Consultants": \$14,000 on November 3, 2011, and \$2,500 on December 30, 2011. Christopher

⁵ See Arizona State Legislature, Member Page at http://www.azleg.gov/MembersPage.asp?Member_ID=96&Legislature=49&Session_ID=87.

⁶ In Arizona, state legislators are term-limited to four consecutive two-year terms. They must be out of office for at least one full term before running again for the same office. See Arizona Legislative Council, *Arizona Legislative Manual*, at 9-10 (2003 ed.) ("State Manual"), available at <http://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

⁷ See Committee to Elect Ron Gould, Amended 2012 January 31st Report (Feb. 1, 2012), available at <http://www.azsos.gov/cfs/CandidateSummarySearch.aspx>.

⁸ The Complaint asserts that the State Committee disbursed a total of \$17,500 to Blue Point in 2011 but correctly acknowledges that the State Committee's disclosure reports contain two individual disbursements of \$14,000 and \$2,500. Compl. at 1-2. Thus the \$17,500 figure appears to contain a typographical error.

1 Baker is the principal and sole member of Blue Point.⁹

2 Gould filed a Statement of Candidacy for the Republican primary race in the 4th
3 Congressional District of Arizona on November 21, 2011, designated Gould for Congress as his
4 exploratory committee, and named Janice Gould as its treasurer.¹⁰ On December 1, 2011, Gould
5 publicly announced the formation of his exploratory committee and issued a press release with
6 "Chris Baker" listed as the contact.¹¹ On January 4, 2012, the *Arizona Republic* published an
7 article describing Baker as Gould's "campaign adviser."¹² In the article, Baker is quoted as
8 stating that Gould planned "to announce his congressional candidacy in the next week or so" —
9 Gould publicly declared his candidacy on January 11.¹³

⁹ See Articles of Organization of Blue Point LLC (May 22, 2006) filed with Arizona Corporation Commission, available at <http://starpas.azcc.gov/scripts/cgiip.exe/WService=wsbroker1/names-detail.p?name-id=L12866476&type=L.L.C>. (showing that Blue Point, LLC is a limited liability company registered in Arizona, with Christopher Baker listed as the sole member and statutory agent). State disclosure reports indicate that Blue Point provided Gould with a variety of consulting services in three of his prior state election campaigns, e.g., campaign literature and mailers, advertising, website design, general election consulting, radio, phones, and mailing and postage. See Committee to Elect Ron Gould disclosure reports, available at <http://www.azsos.gov/cfs/CandidateSummarySearch.aspx>.

¹⁰ Gould also filed a corresponding Statement of Organization for "Gould for Congress (exploratory)". These filings did not specify the state, district, office sought, and party affiliation of the federal office he was seeking. The Reports Analysis Division ("RAD") sent Gould a Request for Additional Information ("RFI") requesting the information, and Gould filed an amended Statement of Organization on December 30, 2011, specifying that he was running in the Republican primary in the 4th Congressional district of Arizona. See Letter from Nataliya Ioffe, Chief, Authorized Branch, FEC, to Ron Gould (Dec. 9, 2011); Ron Gould Amended Statement of Candidacy (Dec. 30, 2011).

¹¹ Attach. 1, Press Release, Senator Ron Gould Announces Congressional Exploratory Committee (Dec. 1, 2011), available at <http://sonoranalliance.com/2011/12/01/senator-ron-gould-announces-congressional-exploratory-committee/>.

¹² See Compl. at 2, citing Rebekah L. Sanders, *Pinal County Sheriff Babeu Announces Run for Congress*, The Republic/azcentral.com, Jan. 4, 2012, available at <http://www.azcentral.com/arizonarepublic/news/articles/2012/01/04/20120104pinal-county-sheriff-babeu-announces-run-congress.html>.

¹³ See Gould for Congress, News, *Ron Gould Announces Candidacy for Congress* (Jan. 11, 2012), available at <http://www.rongould.com/news.php?id=4>. See also Suzanne Adams-Ockrassa, *Arizona Senator Ron Gould announces run for Congress*, Daily Miner, Jan. 12, 2012, available at <http://www.kingmandailyminer.com/main.asp?SectionID=1&SubSectionID=799&Article1>.

1 On January 23, 2012, Gould filed an amended Statement of Candidacy designating Gould
2 for Congress as his principal campaign committee and removing the exploratory notation from
3 the committee's name.¹⁴ Gould for Congress filed its first disclosure report with the
4 Commission — the April Quarterly Report — on April 15, 2012. The earliest disbursement on
5 the report was \$5,000 on November 1, 2011 to John Paul Lewis for "campaign management;" a
6 \$281.75 disbursement for "rent & utilities" followed on November 17.¹⁵ The report also
7 disclosed the receipt of a \$2,250 in-kind contribution of "campaign literature" on March 1, 2012,
8 from "Mr. Chris Baker" at 35311 North 902nd Way (Blue Point's business address).¹⁶

9 In April and May 2012, Baker reportedly continued to speak on Gould's behalf as
10 "campaign consultant." The Complaint cites news articles from this time period that identify
11 Baker as Gould's "campaign consultant" and quote him at length commenting on the primary
12 campaign and criticizing Gould's opponents.¹⁷

¹⁴ See Ron Gould Amended Statement of Candidacy (Jan. 23, 2012); Gould for Congress Amended Statement of Organization (Jan. 23, 2012).

¹⁵ See Gould for Congress 2012 Amended April Quarterly Report (Sept. 24, 2012).

¹⁶ *Id.* at 5; *supra* fn 9 (citing to Blue Point's Articles of Incorporation with Blue Point's address).

¹⁷ See Compl. at 2, citing Rebekah L. Sanders, *GOP Rivals in Race for U.S. House Assail 30-Second TV Spot*, THE REPUBLIC/azcentral.com, April 5, 2012, available at <http://www.azcentral.com/news/politics/articles/2012/04/05/20120405babau-campaign-ad-skips-scandals.html>; Rebekah L. Sanders, *Pinal County Sheriff Paul Babeu Ads Raise Politicking Questions*, The Republic/azcentral.com, Apr. 23, 2012, available at <http://www.azcentral.com/news/politics/articles/2012/04/23/20120423babau-ads-raise-politicking-questions.html>; and Rebekah L. Sanders, *PAC Gives Support to Sen. Ron Gould Run: Anti-Tax Group Likely to Help Boost Cooffers*, THE REPUBLIC/azcentral.com, May 3, 2012, available at <http://www.azcentral.com/news/articles/2012/05/02/20120502pac-gives-support-ron-gould-run.html>.

1 Beginning in June 2012, Gould for Congress made multiple disbursements to Blue Point.
2 Specifically, between June 14, 2012, and August 22, 2012, paid Blue Point over \$97,000 for
3 mailers, a media buy, and "voter contact mail."¹⁸

4 Blue Point and Baker were each notified separately of the Complaint, though neither
5 submitted a response. An *Arizona Republic* news article, however, includes statements
6 reportedly made by Baker in response to the allegations in the Complaint that are consistent with
7 Gould's explanation of the State Committee's payments to Blue Point in the final two months of
8 2011. The article states, "Baker said Gould owed him payments for a year of strategizing
9 political options for Gould once he left the state Senate. Those options included running for state
10 House and statewide office. The compensation was due at the end of the year, Baker said, but
11 Gould wanted to avoid the appearance of impropriety, so he settled his state campaign debts once
12 he decided to run for Congress."¹⁹

13 2. Analysis

14 The Complaint alleges that the State Committee paid \$16,500 to Blue Point for
15 consulting services for Gould's federal campaign.²⁰ The Complaint reasons that the services
16 must have been for the federal campaign because the State Committee had no need for
17 consulting services with Gould ineligible to run for reelection to his state office. The Complaint
18 cites a number of press articles referring to Baker as Gould's campaign consultant beginning in

¹⁸ See Gould for Congress 2012 Amended July Quarterly Report at 27, 2012 Pre-Primary Report at 34, and 2012 October Quarterly Report at 28.

¹⁹ Rebekah L. Sanders, *State Sen. Gould: No improper campaign spending*, THE REPUBLIC/azcentral.com, Aug. 21, 2012, available at <http://www.azcentral.com/arizonarepublic/local/articles/2012/08/17/20120817senator-gould-no-improper-campaign-spending.html>. The article also represents that Matt Roberts, a spokesman for the Arizona Secretary of State's Office, stated that state law does not restrict how legislators spend private state campaign money.

²⁰ Compl. at 2.

1 January 2012, and points out that the federal committee disclosed no disbursements to Blue Point
2 in its April or July Quarterly reports for "'consulting' or related services."²¹

3 Gould denies that the payments to Blue Point were for services for his federal campaign,
4 asserts that Blue Point provided the State Committee with "state level consulting" during 2011,
5 and describes the Complaint's allegation as speculative.²² Gould also refutes the Complaint's
6 claim that he had no need for consulting services relating to state level races, arguing that "[t]his
7 [] is untrue as I am still eligible to run for many other state level offices. I would also be eligible
8 to run for the State Senate again in 2014 under Arizona Statute."²³

9 Under the Act, a federal candidate, the agent of a candidate, or an entity directly or
10 indirectly established, financed, maintained, or controlled by, or acting on behalf of a candidate,
11 shall not "solicit, receive, direct, transfer, or spend funds in connection with an election for
12 Federal office" unless the funds are subject to the "limitations, prohibitions, and reporting
13 requirements."²⁴ Moreover, Commission regulations prohibit the transfer of funds or assets from
14 a candidate's nonfederal campaign committee to his or her federal campaign committee.²⁵ Thus,

²¹ *Id.*

²² Resp. at 1.

²³ *Id.*

²⁴ 2 U.S.C. § 441i(e)(1)(A). Arizona state law limits individual and political committee contributions to a legislative candidate to \$424 per election cycle and prohibits corporate and union contributions. See A.R.S. § 16-905(A)(2).

²⁵ 11 C.F.R. § 110.3(d) (transfers of funds or assets from a candidate's campaign committee or account for a nonfederal election to his or her principal campaign committee or other authorized committee for a federal election are prohibited); Transfers of Funds from State to Federal Campaigns, 57 Fed. Reg. 36,344, 36,345 (Aug. 12, 1992) (Explanation and Justification). See e.g., MUR 6267 (Paton For Senate) (Paton's federal committee received prohibited transfer of funds when Paton's state senate committee paid for polling and a survey benefiting his federal campaign); MUR 5646 (Cohen for New Hampshire) (Cohen's federal committee received prohibited transfer of funds when Cohen's state committee paid for start-up expenses related to his U.S. Senate campaign); and MUR 5426 (Dale Schultz for Congress) (Schultz's federal committee received prohibited transfer of funds when the Schultz state committee paid for expenses that the candidate incurred in connection with his federal election).

1 if the State Committee disbursed the \$16,500 to Blue Point in November and December 2011 (or
2 any portion thereof) for consulting services benefitting Gould's federal campaign, those
3 payments constitute an improper transfer of funds or assets to the federal committee.²⁶

4 There is reason to believe that the State Committee made such an improper transfer to
5 Gould for Congress. The available evidence shows that Blue Point provided Gould with
6 consulting services in connection with his potential federal campaign at least as early as
7 December 1, 2011. On December 1, 2011, Gould issued a press release announcing his
8 congressional exploratory committee (Attachment 1) that lists Baker as the contact name. On
9 January 4, 2012, Baker is identified as Gould's federal campaign manager in an *Arizona*
10 *Republic* article and is quoted as speaking on behalf of Gould in connection with Gould's
11 primary race.²⁷ Additional articles published in April and May also quote Baker commenting on
12 Gould's race and refer to Baker as Gould's "campaign consultant."²⁸

13 Though the evidence appears to show that Baker was providing consulting services to
14 Gould's federal campaign between December 1, 2011, and May 2012, Gould for Congress does

²⁶ In this matter, the State Committee made the payments to Blue Point during a time when Gould purports to be merely exploring a potential candidacy. Whether Gould was testing-the-waters of a potential candidacy or actually a candidate at the time of the State Committee's disbursements does not change the core of the analysis of the alleged violation of 2 U.S.C. § 441i(e). Funds received and payments made solely for the purpose of determining whether an individual should become a candidate are not considered contributions or expenditures under the Act, but are subject to the limitations and prohibitions of the Act and the individual is required to keep records of them. 11 C.F.R. §§ 100.72, 100.131. If the individual becomes a candidate, the funds become contributions and expenditures, and are subject to the reporting requirements of the Act. *Id.* As such, the Commission has previously considered funds spent by a state candidate's campaign committee for the purpose of exploring federal candidacy to be a transfer from the state committee to the subsequent candidate's federal committee. See Factual & Legal Analysis at 4-5, MUR 6267 (Jonathan Paton for Congress); Factual & Legal Analysis at 2-6, MUR 5480 (Levetan for Congress) (Commission found reason to believe that the candidate, the state campaign committee, and the federal campaign committee violated 2 U.S.C. § 441i(e) and 11 C.F.R. § 100.3(d) based on the state campaign committee's payment for polling that benefited the testing-the-waters phase of the candidate's federal candidacy).

²⁷ See *supra* p. 4.

²⁸ See *supra* p. 5.

1 not report any disbursements during this time period which appear to reflect payments for such
2 services. The Gould for Congress's first disclosure report — the April Quarterly Report —
3 includes its receipts and disbursements during its testing-the-waters period (reportedly beginning
4 November 1, 2011) through March 30, 2012. This report disclosed no disbursements to Blue
5 Point.²⁹ In contrast, the State Committee *did* make substantial payments totaling \$16,500 to Blue
6 Point in November and December 2011 for "Professional Services — Consultants." And while
7 the Gould for Congress did ultimately disclose \$97,000 in disbursements to Blue Point between
8 June 14 and August 22, 2012, the first of those disbursements occurred over six months after
9 Baker is first connected to Gould's federal candidacy in December 2011, and each of the
10 disbursements describe purposes specifically connected to discrete projects, *i.e.*, voter contact
11 mail, mailers, and media buy, rather than the type of general consulting services that Baker was
12 apparently providing to Gould earlier in the campaign.³⁰

13 Nor does Gould's limited response provide enough information to "convincingly
14 demonstrate that no violation has occurred."³¹ Gould provides a rather cursory explanation for
15 the State Committee payments at issue, asserting only that the payments were owed to Blue Point
16 for "state level consulting during the year of 2011."³² Gould provides no specific description of

²⁹ The report did include the receipt of a \$2,250 in-kind contribution on March 1, 2012, but it was specifically for "campaign literature" and it was disclosed as having been given by Baker individually, not from Blue Point. The address provided corresponds to Blue Point's business address, but Baker's employer is listed as "self" and there is no other reference to Blue Point. Gould for Congress 2012 Amended April Quarterly Report at 5. (Sept. 24, 2012).

³⁰ See *supra* fn 18.

³¹ See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545, 12,546 (Mar. 16, 2007) (explaining that a "no reason to believe" finding would be appropriate when "the respondents response or other evidence convincingly demonstrates that no violation has occurred").

³² Resp. at 1.

1 the services Blue Point provided to the State Committee, and his response to the Complaint's
2 claim that "there was no legitimate state election purpose for these professional services"
3 because he was term-limited from running for reelection is vague.³³ Further, Gould does not
4 address the press reports that identify Baker as Gould's federal campaign consultant shortly after
5 the State Committee disbursed funds to Blue Point, but long before the Gould for Congress
6 began making direct disbursements to Blue Point. Baker provided some additional detail when
7 he reportedly explained that "Gould owed him payments for a year of strategizing political
8 options for Gould once he left the state Senate," including running for state House and statewide
9 office.³⁴ This explanation, however, combined with the fact that Gould ultimately pursued a
10 federal candidacy and made no apparent federal disbursements for "strategizing" a possible
11 federal candidacy, further supports a finding that the consulting services paid for by the State

³³ Gould simply states, "I am still eligible to run for many other state level offices. I would also be eligible to run for the State Senate again in 2014 under Arizona Statute." *Id.*

³⁴ Rebekah L. Sanders, *State Sen. Gould: No improper campaign spending*, THE REPUBLIC/azcentral.com, Aug. 21, 2012, available at <http://www.azcentral.com/arizonarepublic/local/articles/2012/08/17/20120817senator-gould-no-improper-campaign-spending.html>. Gould is not currently a candidate for Arizona's 4th Congressional District in 2014.

1 Committee may have benefitted Gould's federal campaign, even if only in part.³⁵

2 Based on all of the available information, we can reasonably infer that some or all of the
3 State Committee's payments of \$16,500 to Blue Point may have benefitted Gould's federal
4 campaign. Further, the seriousness of the alleged violation is sufficient to warrant conducting an
5 investigation of those payments.³⁶ We, therefore, recommend that the Commission find reason
6 to believe that (1) the State Committee violated 2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R.
7 § 110.3(d) by transferring funds or assets to Gould for Congress; (2) Ron Gould violated
8 2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R. § 110.3(d) by directing and receiving funds or assets
9 transferred from the State Committee; and (3) Gould for Congress violated 2 U.S.C.
10 §§ 441i(e)(1)(A) and 434(b), and 11 C.F.R. § 110.3(d) by receiving and failing to report funds or
11 assets transferred from the State Committee.

³⁵ In three recent matters with similar allegations of federal candidates using funds from a state committee in support of the federal candidacy, the respondents provided more detailed explanations of the disbursements at issue and the Commission declined to go forward. In MURs 6474 and 6534 (Citizens for Mandel), the Commission found no reason to believe that the candidate, the state campaign committee, and the federal campaign committee violated 2 U.S.C. § 441i(e)(1) and 11 C.F.R. § 100.3(d) where the complaint's allegation that the state campaign committee paid for the candidate's testing-the-waters travel was speculative and specifically denied by the respondents, and the respondents provided sufficient details concerning the travel to show that it did not include federal campaign or testing-the-waters activity. Factual & Legal Analysis at 8, MURs 6474/6534 (Citizens for Mandel). Similarly, in MUR 6773 (Nestande), the Commission dismissed allegations that the candidate and his federal committee accepted non-federal funds from two state committees to pay for expenses incurred in connection with the exploration of his federal candidacy. The response to the complaint specifically addressed the expenditures alleged to have been made for exploratory campaign purposes and provided details about the purpose of each disbursement. *See* Factual & Legal Analysis at 6, MUR 6773 (Nestande). The Commission concluded that "[g]iven the assertion in the complaint and response, the available information is insufficient to indicate whether there is reason to believe a violation occurred." Factual & Legal Analysis at 8, MUR 6773 (Nestande).

³⁶ *See* Statement of Policy Regarding Commission Action in matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545 (Mar. 16, 2007) (explaining that "[t]he Commission will find 'reason to believe' in cases where the available evidence in the matter is at least sufficient to warrant conducting an investigation, and where the seriousness of the alleged violation warrants either further investigation or immediate conciliation"). *See also* Factual & Legal Analysis at 1-2, MUR 6267 (Paton) (the Commission found reason believe and pursued conciliation where Respondents violated 2 U.S.C. § 441i(e) by using non-federal funds to pay \$7,566 for polling in connection with Paton's congressional campaign); Factual & Legal Analysis at 1-2, MUR 6257 (Callahan) (the Commission found reason believe and pursued conciliation where Respondents violated 2 U.S.C. § 441i(e) when the federal committee paid \$5,000 to the mayoral committee for research that initially cost the mayoral committee \$9,932).

1 We also recommend that the Commission authorize a limited investigation, including the
2 use, if necessary, of compulsory process. The purpose of the investigation will be to gather
3 additional information about the purpose of the \$16,500 disbursements to Blue Point by the State
4 Committee for "Professional Services — Consultants," specifically whether Blue Point provided
5 general consulting services to Gould in connection with his federal candidacy that were paid for
6 by the State Committee. This investigation will also provide us with a better understanding of
7 the services Blue Point provided to the State Committee and Gould for Congress and clarify the
8 role Baker played in the federal campaign. Thus, we recommend that the Commission take no
9 action at this time with respect to Blue Point and Christopher Baker.

10 **B. Earmarked Contributions**

11 **1. Facts**

12 Club for Growth PAC ("CFG PAC") is the separate segregated fund for Club for Growth,
13 a 527 organization, is registered with the Commission as a qualified nonparty committee
14 (unauthorized), and files regular disclosure reports with the Commission.³⁷ During the 2012
15 primary election, CFG PAC disclosed receiving 876 contributions totaling \$162,098 between
16 May 3, 2012, and August 30, 2012, that were earmarked for Gould for Congress.³⁸ CFG PAC
17 also provided, on Schedule A of its relevant FEC Form 3 filings (Report of Receipts and
18 Disbursements), contributor information for each individual earmarked contribution that

³⁷ See CFG PAC, FEC Form 1, Statement of Organization (Apr. 13, 2009). CFG PAC is not registered as a lobbyist/registrant PAC.

³⁸ See CFG PAC, 2012 June Monthly Report (June 20, 2012), 2012 July Monthly Report (Aug. 20, 2012), and 2012 Sept. Monthly Report (Sept. 19, 2012).

1 exceeded \$200, and noted in the memo entry field for each contribution that it was earmarked for
2 Gould.³⁹

3 Gould for Congress reported the contributions it received through CFG PAC as
4 "bundled" contributions⁴⁰ by disclosing the receipt of \$155,414 in contributions on FEC Form
5 3L reports (Report of Contributions Bundled by Lobbyists/Registrants and Lobbyist/Registrant
6 PACs) and identifying CFG PAC as the forwarding "lobbyist/registrant."⁴¹ It also itemized on
7 Schedule A of the relevant FEC Form 3 filings, the individual contributors who gave CFG PAC
8 contributions earmarked for Gould in amounts that exceeded \$200.⁴² Those itemized
9 contributions, however, did not contain any memo entries or reference CFG PAC in any way,
10 and did not indicate the date on which the contribution was originally received by CFG PAC.

11 The Complaint alleges that Gould for Congress failed to disclose all of the required
12 information regarding these contributions and omitted identifying "over 150" contributions as
13 having been "earmarked" by Club for Growth with appropriate memo entries.⁴³ The Complaint
14 further alleges that Gould for Congress completely failed to report five individual contributions
15 earmarked by CFG for Gould: \$750 from Robert Bartels (June 14, 2012), \$500 from Robert

³⁹ *Id.*; *see, e.g.*, CFG PAC, 2012 June Monthly Report at 7 (June 20, 2012).

⁴⁰ *See supra* fn 2.

⁴¹ *See* FEC Form 3L: 2012 Mid-Year Report (July 16, 2012); Amended 2012 Mid-Year Reports (July 18, 2012 and Sept. 24, 2012); 2012 Pre-Primary Reports (Aug. 16, 2012; Amended 2012 Pre-Primary Reports (Sept. 24, 2012 and Oct. 11, 2012); and 2012 October Quarterly Report (Oct. 15, 2012) (collectively reporting the receipt of \$155,414 in "bundled" contributions from CFG PAC).

⁴² 141 of the earmarked contributions (totaling \$115,789) required itemization.

⁴³ Compl. at 3. *See* 2 U.S.C. § 434(i)(1); 11 C.F.R. § 104.22(b)(1).

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1 Battle (June 4, 2012), \$505 from Ed Ligon (June 4, 2012), \$250 from John Popp (dated June 13,
2 2012), and \$1,000 from Saul Rosenzweig (June 7, 2012).⁴⁴

3 Gould for Congress denies misreporting the earmarked contributions, asserting that its
4 FEC Form 3L reports contain a summary of the contributions and that information is "populated
5 by FEC software entries" in the committee's disclosure reports.⁴⁵ With regard to the five
6 earmarked contributions allegedly omitted from the committee's reports, Respondents provide
7 varying explanations. According to the Response, Gould for Congress omitted Bartel's \$750
8 contribution by mistake, it accidentally entered Popp's \$250 contribution as \$0, and it could not
9 process the Battle, Ligon and Rosenzweig contributions because it did not have correct credit
10 card information.⁴⁶ Gould for Congress later contacted Ligon and Rosenzweig and obtained the
11 necessary information to process their credit card contributions.⁴⁷ The committee, however,
12 could not contact Battle, and it never processed his contribution.⁴⁸ Gould for Congress reported
13 the contribution made by Popp on the 2012 Amended July Quarterly Report (Sept. 24, 2012) and
14 the Bartels, Ligon, and Rosenzweig contributions on the 2012 Amended Pre-Primary Report
15 (Oct. 11, 2012).

⁴⁴ Compl. at 2-3. Without elaboration, the Complaint also states that "it is unclear" whether Gould for Congress properly attributed contributions between the primary and general elections. The Response does not address Complainant's assertion and there is no indication on the face of the Gould for Congress disclosure reports that the committee improperly attributed contributions between the primary and general elections. Thus, we do not recommend that the Commission pursue this allegation and discuss it no further in this Report.

⁴⁵ Resp. at 1.

⁴⁶ *Id.* at 2.

⁴⁷ *Id.*

⁴⁸ *Id.*

1 2. Analysis

2 Commission regulations require that the intermediary or conduit of an earmarked
3 contribution — here, CFG PAC — “report the original source and the recipient candidate or
4 authorized committee.”⁴⁹ When an earmarked contribution exceeds \$200, the conduit’s report
5 must contain the name and mailing address of the contributor, the contributor’s occupation and
6 name of employer, the date the contribution was received by the conduit as well as the amount
7 and election designation, if any.⁵⁰

8 Further, the recipient of an earmarked contribution — here, Gould for Congress — also
9 has reporting obligations if the earmarked contributions received from a single conduit exceed
10 \$200 in an election cycle.⁵¹ The authorized committee must report on Schedule A the identity⁵²
11 of each conduit or intermediary who forwards any earmarked contributions that, in the aggregate,
12 exceed \$200 in a calendar year; the total amount of earmarked contributions received from the
13 conduit and the date of receipt.⁵³ The recipient committee must also itemize on Schedule A,
14 each original contributor whose total contributions to the committee aggregate over \$200 per

⁴⁹ 11 C.F.R. §§ 102.8(a) and 110.6(b)(2), (c)(1)(iv)(A).

⁵⁰ *Id.*

⁵¹ See also 2 U.S.C. § 431(8)(A)(i) (defining contribution) and 11 C.F.R. § 110.6(b)(1) (defining an earmarked contribution is one that contains a “designation, instruction, or encumbrance” that “results in all or any part of a contribution” being made to a “clearly identified candidate or the candidate’s authorized committee”).

⁵² See 2 U.S.C. § 431(13) (identification means, in the case of an individual, the name, the mailing address, and the occupation of such individual, and the name of employer; in the case of any other person, the full name and address of such person). See also 11 C.F.R. § 100.12.

⁵³ 11 C.F.R. § 110.6(c)(2). See 2 U.S.C. § 441a(a)(8) (providing that “all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit” to a candidate, “shall be treated as contributions from such person to such candidate.”).

1 election, including the full name, mailing address, occupation and employer of the contributors,
2 the amount earmarked and the date the conduit received the contribution.⁵⁴

3 Gould for Congress made two basic errors in reporting the conduit contributions it
4 received through CFG PAC. First, it reported the conduit information on the wrong form —
5 FEC Form 3L (Report of Contributions Bundled by Lobbyists/Registrants and
6 Lobbyist/Registrant PACs) instead of FEC Form 3, Schedule A (Itemized Receipts).⁵⁵ A
7 committee is required to file contributions on FEC Form 3L when it receives bundled
8 contributions from lobbyists/registrants and lobbyist/registrant PACs.⁵⁶ CFG PAC, however, is
9 not registered as a lobbyist/registrant PAC.

10 Second, although it appears that Gould for Congress itemized on FEC Form 3, Schedule
11 A, the earmarked contributions that it received through CFG PAC which exceeded \$200, those
12 itemized contributions did not contain a memo entry noting that they were earmarked through
13 CFG PAC and did not indicate the date on which CFG PAC originally received the contribution,
14 as required.⁵⁷ Thus, there was no indication on the face of the Gould for Congress committee's
15 disclosure reports which of the individual contributions received by the committee were
16 earmarked through CFG PAC. In order to identify which individual contributions Gould

⁵⁴ 11 C.F.R. § 110.6(c)(2), 11 C.F.R. § 104.3(a)(3) and (4).

⁵⁵ See 2 U.S.C. § 434(i); 11 C.F.R. § 104.22. Any political committee that is "established or controlled" by a lobbyist/registrant is known as a lobbyist/registrant PAC and must identify themselves as such on an FEC Form 1. 11 CFR § 102.2(a)(2), 104.22(c). A political committee is "established or controlled" by a lobbyist/registrant if it must be disclosed by a lobbyist/registrant to the Secretary of the Senate or the Clerk of the House of Representatives as being established or controlled by a lobbyist/registrant under the Lobbying Disclosure Act of 1995. *Id.* at 11 C.F.R. § 104.22(a)(3), (4)(i).

⁵⁶ 2 U.S.C. § 434(i)(1); 11 C.F.R. § 104.22(3).

⁵⁷ See *Campaign Guide for Congressional Candidates and Committee*, Appendix A at 125-6 (<http://www.fec.gov/pdf/candgui.pdf>) (demonstrating the proper disclosure of earmarked contributions).

1 received through CFG PAC, one must review the CFG PAC disclosure reports and search for
2 receipts with a memo entry indicating that the contribution was earmarked for Gould.

3 Further, although the RAD instructed the committee on the way to correct its reports,
4 Gould for Congress has never amended its disclosure reports to properly report the earmarked
5 contributions (which constitute over 70% of its total receipts during the election cycle).⁵⁸

6 Thus, we recommend that the Commission find reason to believe that Gould for Congress
7 failed to properly report earmarked contributions in violation of 2 U.S.C. § 434(b).

8 III. RECOMMENDATIONS

- 9 1. Find reason to believe that the Committee to Elect Ron Gould and Janice Gould in
10 her official capacity as treasurer violated 2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R.
11 § 110.3(d).
12
13 2. Find reason to believe that Gould for Congress and Janice Gould in her official
14 capacity as treasurer and Ron Gould violated 2 U.S.C. § 441i(e)(1)(A) and
15 11 C.F.R. § 110.3(d).
16
17 3. Find reason to believe that Gould for Congress and Janice Gould in her official
18 capacity as treasurer violated 2 U.S.C. § 434(b).
19
20 4. Take no action at this time with respect to Blue Point, LLC and Christopher
21 Baker.
22
23 5. Approve the attached Factual and Legal Analysis.
24
25 6. Authorize the use of compulsory process.
26
27

⁵⁸ On August 31, 2013, the committee's RAD analyst gave the Committee's treasurer, Janice Gould, instructions on the proper way to report earmarked contributions. RAD Communication Log, Aug. 31, 2012. In response, the treasurer apparently stated that it "was going to take her a very long time" to comply with that advice and add the conduit entries, and ultimately she never did make the corrections. *Id.* Instead, the committee filed amendments to the previously filed (and unnecessary) FEC Form 3L reports on September 24, 2012 and October 11, 2012, and filed a new FEC Form 3L report, dated October 15, 2012; it appears that these filings merely disclosed the four additional contributions received through CFG PAC that were not included in its original filings. *See supra* p. 14.

7. Approve the appropriate letters.

Date

7-31-14

Kathleen Guith

Deputy General Counsel for Enforcement

Peter G. Blumberg

Assistant General Counsel

Marianne Abely

Attorney

Attachments:

1. Press Release, Gould for Congress (Dec. 1, 2012).



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Senator Ron Gould Announces Congressional Exploratory Committee

2

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FOR IMMEDIATE RELEASE: December 1, 2011

CONTACT: Chris Baker

LAKE HAVASU CITY, AZ – Conservative State Senator Ron Gould announced today the formation of an exploratory committee for Congress in the new Arizona Congressional District 4.

"Today I am proud to announce the formation of an exploratory committee for Congress," said Gould. "After speaking to people both in Mohave County and across this new district, it is clear that they want a strong conservative voice representing them in Congress.

"It is clearer than ever that our federal government still spends too much, taxes too much, and has done very little to create an environment where our economy can get back on the right track and create jobs.

"In Congress, my goals will be very much like they have been in the Arizona State Senate. I



will work to reduce the size, cost and reach of the federal government. I will oppose any effort to increase taxes. I will continue to take the lead in pushing for real solutions to secure Arizona's border and stop illegal immigration. And most importantly, I will fight for common sense policies that grow our economy and allow the many small businesses in our district to grow and create jobs."

About Ron Gould

Ron Gould was elected to the Arizona State Senate in 2004 after defeating two incumbent House members in the Republican primary. In the State Senate, Ron Gould has been recognized as a consistent advocate for smaller government and lower taxes, receiving the highest score from the free-market Goldwater Institute for the last 7 years. Ron Gould also has the highest cumulative lifetime score of any current Arizona legislator from the Arizona chapter of Americans for Prosperity as of their latest scorecard (2010).

Ron and his wife Janice live in Lake Havasu City where they run a successful small business. They have three grown children and one grandchild with another expected in January.

###

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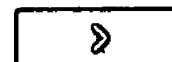
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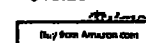
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